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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,680	11/04/2003	Hyo Sig Jean	SI-0047	4923
34610 7590 11/14/2008 KED & ASSOCIATES, LLP P.O. Box 221200 Chantilly, VA 20153-1200				
EXAMINER				
CASCA, FRED A				
ART UNIT		PAPER NUMBER		
2617				
MAIL DATE		DELIVERY MODE		
11/14/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/699,680

Applicant(s)

JEAN, HYO SIG

Examiner

FRED A. CASCA

Art Unit

2617

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 October 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See below.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/VINCENT P. HARPER/
Supervisory Patent Examiner, Art Unit 2617

Applicant's arguments with respect to claims 1, 3-14 and 20-29 under 35 USC 112, has been considered, but they are not persuasive. In response to applicant's arguments that the meaning of the phrase "without referring to protocol revision information" is apparent from the specification (For example, the Background portion of the specification acknowledges that the mobile stations operate according to various types of communication protocols. One example is the IS-95 series of communication protocols), the examiner respectfully disagrees. First of all, the Background of the specification does not recite "the mobile stations operate according to various types of communication protocols." Second, the concept of mobile stations operating according to various types of communication protocols does not have any relevance or correlation with the limitation "without referring to protocol revision information." Additionally, the specification has not provided information as to how the protocol revision information is or is not implemented in the process of determining whether to conduct a dormant handoff. Without additional guidance, there would be undue experimentation as to how the process of determining whether to conduct a dormant handoff is implemented without protocol revision information.

Applicants further argue on page 2 of arguments filed on 10/27/2008, that "From time to time, these protocols are revised in order to, for example, accommodate greater capability or to improve efficiency. The specific protocols are therefore identified by their revision numbers, e.g., IS-95A, IS-95B, etc., similar to the way the current version of the MPEP is identified, e.g., MPEP, Eighth Edition, revision 2. Paragraphs [14] and [15] of the specification acknowledge these revisions and that some revisions of the IS-95 standard have capabilities that other revisions do not. One such capability relates to providing a dormant function such as recited in the claims. When, for example, two mobile stations or a mobile station and base station attempt to communicate using different protocol revisions, there can be a problem. The mobile stations typically store protocol revision information as basic information in memory. This information will tell the controller of the mobile station which capabilities it has and, by default, which capabilities it does not have, e.g., dormant function." The examiner has considered the above arguments carefully. However, the examiner does not find any rational to correlate the concept of determining whether to conduct a dormant handoff without referring to protocol revision information. Without additional guidance, there would be undue experimentation as to how the process of determining whether to conduct a dormant handoff is implemented without protocol revision information.

Applicant further argue on page 2 of arguments that as those skilled in the art appreciate, mobile stations that did not support a dormant function (or communicated with ones that did not support such a function) would respond to a request by checking the protocol revision information stored in memory. With the claimed invention, there is no need to perform this check because the "special message" provides an indication of whether a dormant function is to be performed for the mobile station. Applicants submit that this clarifies the language in Paragraph 44. Examiner respectfully disagrees. The contents of paragraph 44 of specification are not interpreted by the examiner as the applicant has suggested above. By simply reciting that conducting dormant handoff function ... by referring to the specific information without referring to the protocol revision information, a person of ordinary skill in the art would not be able to understand how the process of determining whether to conduct a dormant handoff is implemented without protocol revision information. Without additional guidance, there would be undue experimentation as to how the process of determining whether to conduct a dormant handoff is implemented without protocol revision information. Applicants further argue on page 3, lines 8-11, that the phrase "without referring to protocol revision information" has clear and definite meaning when the specification is read by one skilled in the art. The Examiner respectfully disagrees. The only place that the specification merely mentions protocol revision information is in paragraph 44. However, paragraph 44 basically repeats the limitation of the claim without providing any information as to how the process of determining whether to conduct a dormant handoff is implemented without protocol revision information.